

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	4:12cr3072
)	
Plaintiff,)	MOTION TO SUPPRESS
)	SEARCH AND REQUEST FOR
vs.)	EVIDENTIARY HEARING
)	
BRANDON DAVIS,)	
)	
Defendant.)	

COMES NOW the defendant, Brandon Davis, by and through counsel, Jerry M. Hug, pursuant to F.R.Cr.P. 12(b)(3))(C) and moves this Court for an evidentiary hearing and an Order suppressing any and all evidence derived from a search of Davis' residence located at 2841 P St #1, Lincoln, Lancaster County, Nebraska. In support of this Motion Davis states as follows:

- (1) On May 19, 2012 a search warrant was issued by the County Court of Lancaster County authorizing law enforcement to search Davis' residence at 2841 P St, Apt. #1, Lincoln, NE;
- (2) An affidavit and application for the warrant was submitted by Jeff Sorenson of the Lincoln Police Department on May 18, 2012;
- (3) The affidavit and application failed to establish probable cause for the issuance of the warrant;
- (4) The affidavit and application consists of information that is stale;
- (5) The affidavit and application relied in part on information that was unreliable and uncorroborated;
- (6) The search was conducted in violation of Davis' rights under the Fourth Amendment to the United States Constitution;
- (6) The 'good faith' exception of *United States v. Leon*, 468 U.S. 897, 104 S.Ct. 3405, 82 L.Ed.2d 677 (1984) does not apply because there was no reasonable basis for officers to

believe the warrant was valid as: (1) the issuing judge failed to act in a neutral and detached manner and/or (2) the warrant was so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable, and/or (3) the warrant was so facially invalid that no reasonable officer could believe it to be valid.

(7) Davis was a resident of the address searched and therefore has standing to challenge the warrant in this case.

WHEREFORE, Davis requests an evidentiary hearing to submit the affidavit and application as well as the search warrant in to evidence for the Court's review and an Order finding the search violated Davis' Fourth Amendment rights and suppressing any and all evidence derived from the unlawful search as fruit of the poisonous tree under *Wong Sun v. United States*, 371 U.S. 471, 83 S.Ct. 407 (1963).

BRANDON DAVIS, Defendant.
BY: /s/ Jerry M. Hug
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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2012 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: Sara Fullerton, Assistant United States Attorney.

/s/ Jerry M. Hug